

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED

## UNITED STATES DISTRICT COURT

for the  
Northern District of TexasIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)Facebook user ID: 100000746877259 and URL address:  
<https://www.facebook.com/BostonPeckerwood>CLERK, U.S. DISTRICT COURT  
by \_\_\_\_\_  
Deputy

Case No. 4:17-MJ-458

FILED UNDER SEAL

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location): Facebook user ID: 100000746877259 and URL address: <https://www.facebook.com/BostonPeckerwood> as described in Attachment A.

located in the Northern District of Texas, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;  
 contraband, fruits of crime, or other items illegally possessed;  
 property designed for use, intended for use, or used in committing a crime;  
 a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
21 U.S.C. § 846	Conspiracy to Possess Methamphetamine with Intent to Distribute

The application is based on these facts:

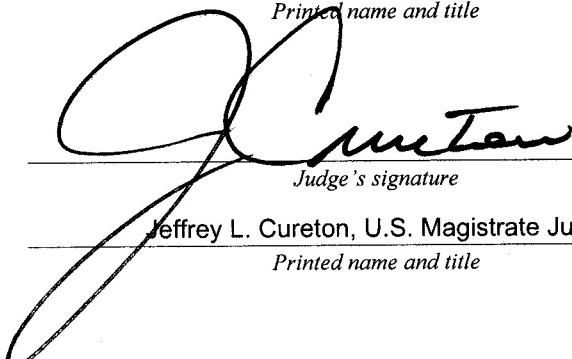
See attached Affidavit.

- Continued on the attached sheet.  
 Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_ ) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

  
Applicant's signature

Special Agent Mike McCurdy, Homeland Security

Printed name and title

  
Judge's signature

Jeffrey L. Cureton, U.S. Magistrate Judge

Printed name and title

Sworn to before me and signed in my presence.

Date:

5/22/17

City and state: Fort Worth, Texas

**AFFIDAVIT IN SUPPORT OF  
AN APPLICATION FOR A SEARCH WARRANT**

I, Mike McCurdy, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION**

1. I make this affidavit in support of an application for a search warrant for information associated with a Facebook user account that is stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession pertaining to the subscriber or customer associated with the user ID.

2. I am an "investigative or law enforcement officer of the United States" within the meaning of 18 U.S.C. § 2510(7); that is, I am an officer of the United States who is authorized by law to conduct investigations and make arrests for offenses enumerated in 18 U.S.C. § 2516. I am a Special Agent of the United States Department of Homeland Security, Homeland Security Investigations (HSI) currently assigned to the Office of the Special Agent in Charge, Dallas, Texas, employed as such since 2007.

Within the Dallas office, I am currently assigned to the North Texas High Intensity Drug Trafficking Area (HIDTA). I have received extensive training on how to conduct narcotics investigations and have participated in these types of investigations for the past ten years.

3. I am familiar with the facts and circumstances of the investigation set forth below through my personal participation; from discussions with other federal agents and local law enforcement officers; and from my review of records and reports relating to the investigation.

4. Sources of supply, distributors, and consumers of illegal drugs frequently use Facebook, WhatsApp, Instagram, Snapchat and other social networking applications as means of communication to facilitate drug transactions.

5. On July 26 and August 3, 2016, law enforcement officers conducted custodial, post-arrest interviews of Allen David Rogers. During the interviews, Rogers admitted to involvement in drug distribution. Rogers also consented to a search of his cell phone and provided the pass code to the device. During a search of the device, agents/officers located text message communications facilitating drug distribution. For example, Rogers' phone received a text message from a methamphetamine customer that reads, "Can u come to me if not I'll go to u right now can I buy some work?". In the experience of the affiant and other investigators, the term 'work' is frequently used as code language for methamphetamine.

The same customer later sent a message to Rogers' phone that reads, "You got it?". Rogers replied, "How muxh (sic)". The customer replied, "A TEEN OR A BALL". A 'teen' is a term commonly used to refer to one-sixteen ounce of methamphetamine. A 'ball' is a term commonly used to refer to one-eighth ounce of methamphetamine. Officers located another text message string between Rogers and Joshua Milson. At the time those messages were sent, Milson was a fugitive on an outstanding warrant issued in the Northern District of Texas for violating 21 U.S.C. § 846. In addition to these text messages, officers located at least one Facebook Messenger message, dated July 17, 2016, between Rogers and Jason Easley. Law enforcement officers have identified Easley as a member of a methamphetamine distribution conspiracy.

6. On May 15, 2017, the affiant obtained a search warrant, issued in Northern District of Texas, to re-enter Rogers' cell phone. During a search of Rogers' phone, the affiant located a series of Facebook Messenger messages, stored on the phone, between Roger's Facebook account and the Facebook account of Jason Easley, mentioned in paragraph 5. A message was sent from Easley's account to Rogers' account. That message reads, "Give me a call if you need some work". The reply from Rogers' account reads, "Work??????". The third message in that series, from Easley to Rogers reads, "Just call my number man. 8325933786". At another point in the same message string between Rogers' Facebook account and Easley's Facebook account, a message was sent from Rogers to Easley that reads, "What u wanting". The reply from Easley reads, "Just a few zips".

The next message in the series, also from Easley reads, "Do I need to buy more?". In the experience of the affiant and other investigators, the term 'zip' is used to refer to an ounce quantity of drugs.

7. Based in part on the information located in Rogers' cell phone, investigators identified Rogers' Facebook account. The account includes several images of Rogers, his nickname 'Boston', and lists his work as 'Cinemation Design'. An Arlington Police Department report detailing an arrest of Rogers in April 2016 lists the same employment. Rogers and/or other conspirators accessed Facebook from electronic devices in the Northern District of Texas for the purpose of facilitating drug transactions. Rogers' Facebook account, herein after referred to as **the Rogers account**, is associated with the URL address: <https://www.facebook.com/BostonPeckerwood>, User ID: 100000746877259, and telephone numbers: 817-707-9880 and 817-902-3194.

8. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

9. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites,

and other personal identifiers. Facebook also assigns a user identification number to each account.

10. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend Request.” If the recipient of a “Friend Request” accepts the request, then the two users will become “Friends” for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “News Feed,” which highlights information about the user’s “Friends,” such as profile changes, upcoming events, and birthdays.

11. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create “lists” of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

12. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other

items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

13. Facebook has a Photos application, where users can upload an unlimited number of albums and photos. Another feature of the Photos application is the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos associated with a user’s account will include all photos uploaded by that user that have not been deleted, as well as all photos uploaded by any user that have that user tagged in them.

14. ‘Facebook Messenger’ is the instant messaging service application within Facebook. It allows users to send and receive messages with other Facebook users or groups of users, similar to e-mail messages or SMS text messaging service for cellular telephone users. Facebook users can exchange private messages on Facebook with other users. These messages are sent to the recipient’s “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well as other information.

Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

15. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

16. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

17. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

18. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

19. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

20. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

21. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

22. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

23. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

24. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

25. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider’s support services, as well as records of any actions taken by the provider or user as a result of the communications.

26. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

**INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

27. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

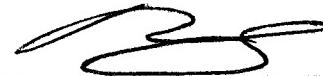
**CONCLUSION**

28. Based on the forgoing, I believe that probable cause exists that **the Rogers account** contains evidence, fruits, and/or instrumentalities of the violations of federal law. Therefore, I request that the Court issue the proposed search warrant.

29. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that has jurisdiction over the offense being investigated, specifically, 21 U.S.C. § 841(a)(1), 21 U.S.C. § 843, and 21 U.S.C. § 846 .

30. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

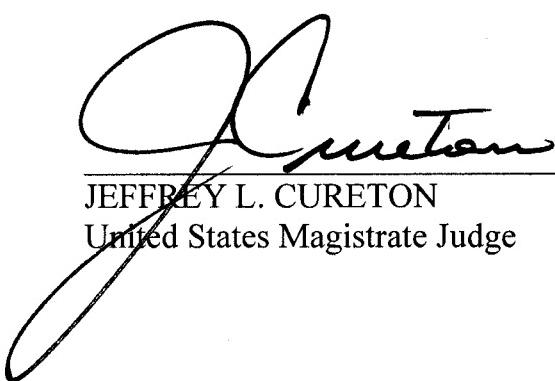
Respectfully submitted,



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Mike McCurdy  
Special Agent  
United States Department of Homeland  
Security  
Homeland Security Investigations

Sworn to and subscribed before me on this 22<sup>nd</sup> day of May 2017 at 2:04  
a.m.<sup>00</sup> in Fort Worth, Texas.



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JEFFREY L. CURETON  
United States Magistrate Judge

**ATTACHMENT A**

**Property to Be Searched**

This warrant applies to information associated with the Facebook user ID:  
100000746877259 and URL address:  
<https://www.facebook.com/BostonPeckerwood>, that is stored at premises owned,  
maintained, controlled, or operated by Facebook, a company headquartered in  
Menlo Park, California.

**ATTACHMENT B**

**Particular Things to be Seized**

**I. Information to be disclosed by Facebook**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- (a) All contact and personal identifying information, including : full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (b) All photos uploaded by that user ID and all photos uploaded by any user that have that user tagged in them;
- (c) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (d) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (e) All "check ins" and other location information;

- (f) All IP logs, including all records of the IP addresses that logged into the account;
- (g) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (h) All information about the Facebook pages that the account is or was a "fan" of;
- (i) All past and present lists of friends created by the account;
- (j) All records of Facebook searches performed by the account;
- (k) All information about the user's access and use of Facebook Marketplace;
- (l) The types of service utilized by the user;
- (m) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (n) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (o) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

## **II. Information to be seized by the government**

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of 21 U.S.C. §§ 841 and 846 involving Allen David Rogers since March 1, 2014.

The information described in Section I should include for each user ID identified on Attachment A, information pertaining to the following matters:

- (a) Distribution of illegal drugs and evidence of any violation of 21 U.S.C. Section 841, 21 U.S.C. 843, 21 U.S.C. Section 846, 18 U.S.C. 1956 or 18 U.S.C. 1957.
- (b) Records relating to who created, used, or communicated with the user IDs, including records about their identities and whereabouts.